



UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Edward A. Marue and
Kenneth J. Pereira

Serial No: 09/596,850

Filed: June 19, 2000

Title: TELESCOPING MAST WITH
INTEGRAL PAYLOAD

Examiner: R. Ramirez

Art Unit: 3632

Date: February 6, 2002

**REQUEST FOR REFUND OF PETITION FEE FOR
SUBMISSION OF PETITION UNDER RULE 1.47**

Hon. Commissioner of Patents
and Trademarks
Washington, DC 20231

RECEIVED
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GROUP 3000

Sir:

On August 13, 2001, Applicant submitted a Petition for filing of a reissue continuation application without declaration of joint inventor. A copy of the Petition is attached herewith behind Tab 1. The Petition was submitted under 37 C.F.R. §1.47.

Applicant has now received a response from the Examiner indicating that the Petition needed to be filed under 37 C.F.R. §1.183. A copy of the Examiner's response is attached herewith behind Tab 2.

In accordance with the Examiner's instructions, Applicant has submitted a Petition under 37 C.F.R. §1.183 accompanied with an additional petition fee required by this rule. A copy of this Petition (without attachments) is attached herewith behind Tab 3.

Since the Petition under Rule 1.47 will not be considered, it is respectfully requested that the petition fee of \$130.00 be refunded to Applicant's representative at the address identified below.

DRUMMOND & DUCKWORTH
5000 Birch Street, Suite 440, East Tower
Newport Beach, California 92660

Respectfully submitted,

DRUMMOND & DUCKWORTH

A handwritten signature in black ink, appearing to read "David G. Duckworth", written in a cursive style.

David G. Duckworth
Registration No. 39,516
Attorneys for Applicant
Telephone: (949) 724-1255

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Edward A. Marue and
Kenneth J. Pereira

Serial No: 09/596,850

Filed: June 19, 2000

Title: TELESCOPING MAST WITH
INTEGRAL PAYLOAD

Examiner: R. Ramirez

Art Unit: 3632

Date: August 13, 2001

**PETITION FOR FILING OF REISSUE CONTINUATION APPLICATION
WITHOUT DECLARATION OF JOINT INVENTOR**

Hon. Commissioner of Patents
and Trademarks
Box: No Fee Amendment
Washington, DC 20231

Sir:

The above-identified continuation reissue application was filed on June 19, 2000. The Examiner has requested that declarations be submitted by the inventors including an explanation of the error in the parent patent, U.S. Patent No. 5,615,855 filed on December 9, 1994.

The parent '855 patent was filed naming inventors Edward Marue and Kenneth Pereira. A declaration of Edward Marue is submitted herewith. However, Kenneth Pereira refuses to join in filing the present application which has been assigned to The Will-Burt Company, along with the '855 patent.

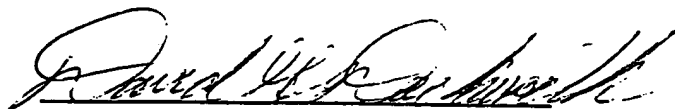
The undersigned has made numerous attempts to contact Mr. Pereira by mail and by telephone. All attempts have been unsuccessful. However, the undersigned attorney was able to reach Mr. Pereira's girlfriend "Linda". Linda indicated that Mr. Pereira was not willing to sign any documents supporting the instant application.

Mr. Pereira's last known address is: 1581 18th Avenue, Kingsburg, California 93631.

The present Petition is believed to provide proof of the pertinent facts and the last known address of the non-signing inventor in accordance with M.P.E.P. § 409.03 and 37 C.F.R. § 1.47. The fee set forth in 37 C.F.R. § 1.17(i) of \$130.00 is also submitted herewith.

I hereby declare that all statements made herein are of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

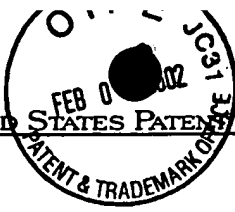
Executed on this 13th day of August, 2001, at Newport Beach, California.


David G. Duckworth

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UNITED STATES PATENT AND TRADEMARK OFFICE



UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/596,850	06/19/2000	Edward A. Marue	546-P-8-USA	4479

7590

12/14/2001

Drummond & Duckworth
Suite 500
4590 MacArthur Boulevard
Newport Beach, CA 92660

EXAMINER

RAMIREZ, RAMON O

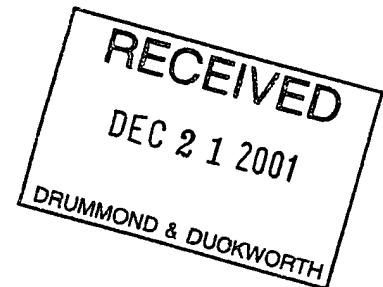
ART UNIT PAPER NUMBER

3632

DATE MAILED: 12/14/2001

Response / Petition due
January 14, 2002.

Please find below and/or attached an Office communication concerning this application or proceeding.





Detailed Action

This is the third Office Action corresponding to communication filed on Aug 13, 2001.

Response to Amendment

The reply filed on Aug 13, 2001 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): the supplemental declaration is not signed by all the listed inventors. Applicant legal counsel filed a petition under Rule 1.47 to correct this; however, it appears that the petition should be filed under Rule 1.183. This type of petition is handled by the Office of Petitions, not by the Examiner Sectors. Petitions under Rule 1.47 is for the filing of an application. In this particular case, the application was filed by all the inventors; it is the supplemental declaration that lacks the signature of one of the inventor.

Applicant is suggested to file a petition to under Rule 1.183. Specific questions about Petitions should be directed to the Office of Petitions (703-305-9282)

See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Art Unit: 3632

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner **Ramírez** at telephone number (703) 308-0748.

The examiner can be normally reached on Monday-Thursday and alternate Fridays.

The fax numbers for this Group are (703) 305-7687 (for formal papers), and (703) 308-3519 (for informal papers).

Any inquiry of general nature relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113.

R.O.RAMIREZ
December 13, 2001

RAMON O. RAMIREZ
PRIMARY EXAMINER
TECHNOLOGY CENTER 3600
ART UNIT 3632

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Edward A. Marue and Kenneth J. Pereira	Examiner: R. Ramirez
Serial No:	09/596,850	Art Unit: 3632
Filed:	June 19, 2000	
Title:	TELESCOPING MAST WITH INTEGRAL PAYLOAD	Date: February 6, 2002

**PETITION FOR FILING OF REISSUE CONTINUATION APPLICATION
WITHOUT DECLARATION OF JOINT INVENTOR UNDER 37 C.F.R. §1.83**

Hon. Commissioner of Patents
and Trademarks
Washington, DC 20231

Sir:

BACKGROUND/STATEMENT OF FACTS

On March 31, 1999, Applicant filed a reissue application, Serial No. 09/283,843, stemming from U.S. Patent No. 5,615,855 issued on April 1, 1997 and naming Edward Marue and Kenneth Pereira as the inventors. The reissue application was filed with reissue oath/declarations executed by both inventors in accordance with 37 C.F.R. §1.175 and M.P.E.P. §1404. These declarations were supplemented with additional declarations executed by the inventors Marue and Pereira in accordance with M.P.E.P. §1414.01. Copies of each of these declarations are attached herewith behind Tab 1.

On June 19, 2000, Applicant filed a continuation reissue application Serial No. 09/596,850 claiming priority to reissue application Serial No. 09/283,843 in accordance with M.P.E.P. §1451. The instant continuation application was not originally filed with the reissue declarations required of 37 C.F.R. §1.175 and M.P.E.P. §1414 as it was the undersigned Applicant's representative's incorrect understanding that a continuation of a reissue application did not require such declarations.

Initially, the Examiner in charge of the present application also did not understand that the present application required declarations of the inventors in accordance with M.P.E.P. § 1414 and the Examiner issued a Notice of Allowance on October 6, 2000. Thereafter, the issue fee in connection with the present application was paid on October 24, 2000. However, the instant application did not result in an issued patent as on February 13, 2001 the Examiner issued an Office Action indicating that the present continuation reissue application required the declarations of the inventors under 37 C.F.R. §1.175. Applicant responded by providing a declaration of one of the inventors, namely that of Edward Marue. A copy of this declaration is attached herewith behind Tab 2. However, inventor Kenneth Pereira refused at this time to sign an additional declaration. The undersigned made numerous attempts to contact Mr. Pereira by mail and by telephone. All attempts were unsuccessful. However, the undersigned attorney was able to reach Mr. Pereira's girlfriend "Linda". "Linda" indicated that Mr. Pereira would not be willing to sign any documents supporting the instant application.

Mr. Pereira's last known address is: 1581 18th Avenue, Kingsburg, California 93631.

In light of Applicant's inability to obtain a declaration from one of the joint inventors, Applicant filed a Petition for Filing of Reissue Application Without Declaration of Joint Inventor on August 13, 2001 under 37 C.F.R. §1.47. A copy of this Petition is attached herewith behind Tab 3.

Applicant has now received a response from the Examiner indicating that the Petition under Rule 1.47 was improper, and that the Petition needed to be filed under Rule 1.183. A copy of the Examiner's response is attached herewith behind Tab 4.


In accordance with the Examiner's suggestion, Applicant respectfully requests that the requirement of a declaration by one of the joint inventors under 37 C.F.R. §1.175 be waived. This waiver is believed to be particularly reasonable as the joint inventor Pereira initially executed such a declaration in connection with the instant continuation reissue application's parent application, Serial No. 09/283,843.

The fee set forth in 37 C.F.R. §1.17(h) is also submitted herewith.

I hereby declare that all statements made herein are of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so

made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Executed on this 6th day of February, 2002, at Newport Beach, California.



David G. Duckworth